

**IN THE FEDERAL DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
CIVIL DIVISION**

**MARY JONES and;  
JOSEPH ALFORD**

**Plaintiffs,**

**HOUSTON COUNTY, ALABAMA;et.al.,**

## Defendants.

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) **Case No.: 1:06-cv-585**  
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**MOTION /APPLICATION FOR ENTRY of DEFAULT JUDGMENT**

**COME NOW**, Plaintiffs, by and through the undersigned counsel of record, and makes this their Motion / Application for Entry of Default Judgement in the above styled cause of action and as grounds state as follows;

1. On 06/30/06 Plaintiffs filed their Complaint at document 1 in the above styled cause of action.
2. On 07/11/06 Defendant Sheriff Lamar Glover was served with a copy of the Complaint as evidenced at document 9, Return Receipt Card.
3. On 07/12/06 Defendant Houston County Sheriff's Department was served with a copy of the Complaint as evidenced at document 5, Return Receipt Card.
4. Respectively, Sheriff Lamar Glover's Answer to the Complaint was due to be filed in this matter on or before 07/31/06 and Defendant Houston County Sheriff's Department's Answer to the Complaint was due to be filed on or before 08/01/06.
5. Answers to the Plaintiffs' Complaint were due to be filed within 20 days after being served with a summons and complaint pursuant to Rule 12(a)(1)(A), Fed.R.Civ.P., neither Defendant Sheriff Lamar Glover nor Defendant Houston

County Sheriff's Department filed their Answer within the 20 days as proscribed in the aforementioned Rule. Moreover, neither of these Defendants has to date filed an Answer to Plaintiffs' Complaint.

6. This Honorable Court entered an ORDER on 11/07/06 at document 22 thereby ORDERING Defendant Sheriff Lamar Glover and Defendant Houston County Sheriff's Department to file and Answer to Plaintiffs' Complaint on or before 11/09/06 or in the alternative granting unto these defendants the opportunity to show cause as to why they should not be subject to an entry of Default Judgement to be filed on or before 11/17/06.
7. As of the time of this instant pleading Defendants have failed to abide by this Honorable Court's ORDER of 11/07/06 at document 22 inasmuch as the Defendants have failed to file and Answer in the above styled cause, Defendants have failed to file any pleading on or before 11/17/06 as ORDERED to show cause as to why Default judgment should not be entered as against these Defendants.
8. Defendants Sheriff Lamar Glover and Houston County Sheriff's Department have failed to otherwise defend against Plaintiff's Complaint pursuant to Rule 55(a), Fed.R.Civ.P.
9. Defendants have appeared by counsel in the above styled cause of action and have made effort to plead for summary judgment. Defendants Motion for Summary Judgment, document 24, and Brief Memorandum in Support of Motion for Summary Judgment, document 25, failed to show cause as to why they should not be subject to entry of default. Defendants were ORDERED to file a pleading to

show cause as to why there should not be an entry of default judgment, they simply did not.

10. Plaintiffs have been and continue to be highly prejudiced by Defendants failure to Answer Plaintiffs' Complaint.
11. Defendants blatant disregard for this Honorable Court's ORDER directing an Answer to be filed is tantamount to waiver of affirmative defenses and Plaintiffs' allegations and averments of their Complaint should be deemed admitted by these Defendants.
12. Defendants have exhausted an aeon of time to file their Answer, even after being ORDERED to file their Answer, and therefore should be, as a least restrictive admonition for failing to obey a direct ORDER of Your Honor, deemed to have waived all affirmative defenses if not deemed in default.

**WHEREFORE**, Plaintiffs, by and through the undersigned counsel of record, respectfully pray this Honorable Court to enter an ORDER of Default as against Defendants Sheriff Lamar Glover and Houston County Sheriff's Department. Further, that in the event an entry of Default Judgment is not so Ordered, Plaintiffs' respectfully pray this Honorable Court to enter an ORDER denying all affirmative defenses of Defendants for failure to Answer Plaintiffs' Complaint as ORDERED and direct the parties to proceed in accord of such Order.

**RESPECTFULLY SUBMITTED** this the 8<sup>th</sup> day of December, 2006.

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**CERTIFICATE OF SERVICE**

I do hereby certify that I have served a copy of the foregoing this the 8<sup>th</sup> day of December, 2006 by electronically filing same with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below listed counsel:

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